

REMARKS

Claims 22-47 are currently pending, Claims 48-55 have been withdrawn, and new Claims 56-81 have been added. Claims 22-47 have been cancelled, rendering rejections of these claims moot. Applicants request that new Claims 56-81 be entered and found in condition for allowance.

Support for new Claims 56-81 is found throughout the specification and in particular on page 9 at lines 17-27, on page 10 at lines 18-27, on page 11 at line 25 to page 14 at line 4, on page 15 at line 8 to page 17 at line 2, and in Examples 1 and 2.

Corrected drawings as required by the Examiner are submitted herewith. Drawings were objected to for the reasons indicated on form PTO 948 accompanying the Official Action. Applicants request that corrected drawings for Figures 1-10 submitted herewith be accepted and entered into the record, and objections to drawings withdrawn.

A Substitute Sequence Listing under 37 C.F.R. §1.825 is submitted herewith. The amended Substitute Sequence Listing does not contain new matter. Support for the amended Substitute Sequence Listing is found on page 10 at lines 20-21 of the original specification of the present application as filed. Support for the amended Substitute Sequence Listing is found in the parent and grandparent application to the present application. Applicants request consideration of the following remarks concerning the Substitute Sequence Listing, and request that the Substitute Sequence Listing be entered into the record.

The specification has been amended. Support for these amendments is found on page 10 at lines 20-21 of the original specification filed in the present application, and in the parent and grandparent application to the present application. Applicants request consideration of the following remarks concerning amendments to the specification, and request that the replacement sections submitted herewith as amendments to the specification be entered into the record. A marked-up copy of the original specification is enclosed, with changes made shown in red ink.

Regarding the Substitute Sequence Listing and amendments to the specification

The specification has been amended to correctly refer to amino acid residues of SEQ ID NO: 1, where SEQ ID NO: 1 is the sequence of human myelin basic protein as taught on page 10 at line 21 of the specification. The amendment to the specification contains no new matter. The amended Substitute Sequence Listing submitted herewith now correctly identifies SEQ ID NO: 1 as a peptide from a clone of human myelin basic protein, and lists the complete sequence of human myelin basic protein as SEQ ID NO: 1. In addition to the instructions for amendment presented herein, a marked-up copy of the specification under 37 C.F.R. § 1.21(b) is also submitted herewith, with markings in red ink showing changes made relative to the version of the specification originally filed.

Support for amendments to the specification is found in the record of the parent and grandparent of the present application. The present application was filed as a continuation of Application Serial No. 09/007,520 (the '520 application) now Patent No. 6,258,781 (the '781 patent). The original specification filed in the present case is identical to the original specification filed in the '520 application. Thus, the original specification in the parent '520 application also recites "Val 87 and Ile93 in the human myelin basic protein as shown in SEQ ID NO: 1" (page 10 at lines 20-21); the corresponding text in the '781 patent is found in column 6 at lines 20 to 21. The original specification for the '520 application was filed with a preliminary amendment that included the same amendments to the original specification of the '520 application as the amendments presented herewith in the present application. In particular, the original specification of the '520 application was amended to correctly identify the amino acid sequence on page 12 of the original specification as "Amino acids 61-106 of SEQ ID NO: 1" (added matter underlined), and to identify other peptides in the specification as sequence corresponding to SEQ ID NO: 1. The specification of the '781 patent reflects the amendments made to the original specification of the '520 application. Because the amendments to the specification presented herein are of record in the parent '520 application, the present amendments to the specification do not introduce new matter.

A Substitute Sequence Listing is submitted herewith to correctly identify SEQ ID NO: 1 as a peptide from a clone of human myelin basic protein, and to correctly list the amino acid

sequence of human myelin basic protein as SEQ ID NO: 1. Support for the Substitute Sequence Listing submitted herewith is found in the original specification on page 10 at lines 20-21 of the present application, which teaches a valine residue at amino acid position 87 (Val 87) and an isoleucine residue at amino acid position 93 (Ile93) "in the human myelin basic protein as shown in SEQ ID NO: 1." (Page 10 at lines 20-21). In the Sequence Listing previously submitted in the present application on October 3, 2001, SEQ ID NO: 1 is identified as a "Synthetic Peptide" having forty-six (46) amino acids. In the Substitute Sequence Listing submitted herewith, SEQ ID NO:1 is identified as human myelin basic protein having 170 amino acids, including a valine residue at amino acid position 87 (Val87) and an isoleucine residue at amino acid position 93 (Ile93) as taught in the specification on page 10 at lines 20-21. In the Substitute Sequence Listing submitted herewith, amino acids 61-106 of SEQ ID NO: 1 correspond to the amino acid sequence identified as 61 to 106 on page 12 of the original specification.

Support for the Substitute Sequence Listing submitted herewith is found in the specification and Sequence Listing of the parent and grandparent of the present application. In the parent '520 application (now the '781 patent), a claim was made under 37 C.F.R. § 1.821(e) that the Sequence Listing and the computer readable form of the Sequence Listing were identical to the Sequence Listing submitted in the parent application of the '520 application, namely Application Serial No. 08/327,357, now Patent No. 5,817,629 (the '629 patent), the grandparent of the present application. (Application Serial No. 09/007,520, Letter Pursuant to 37 C.F.R. § 1.821(e), filed October 12, 1999). Inspection of the Sequence Listing in the grandparent '629 patent and the parent '781 patent shows that SEQ ID NO: 1 lists a 170-amino-acid sequence identified as a peptide from a clone of human myelin basic protein. SEQ ID NO: 1 of the '629 and '781 patents have a valine residue at amino acid position 87 (Val87) and an isoleucine residue at amino acid position 93 (Ile93) as taught in the specification ('629 patent, column 6 at lines 22-23; '781 patent, column 6 at line 20-21). In the Sequence Listing of the '629 patent and the '781 patent, amino acids 61-106 of SEQ ID NO: 1 correspond to the amino acid sequence identified in the specification as "Amino acids 61-106 of SEQ ID NO: 1" ('629 patent, column 7 below line 31; '781 patent, column 7 below line 29).

Thus, because the amended Substitute Sequence Listing submitted herewith contains the correct SEQ ID NO: 1 as found in the parent and grandparent applications to the present application, and as identified in the specification, the amended Substitute Sequence Listing does not contain new matter and should be accepted. Applicants point out that SEQ ID NO: 2 through SEQ ID NO: 12 of the Substitute Sequence Listing is identical to the original Sequence Listing filed on October 3, 2001, in the present application.

Regarding rejections of claims

Although claim rejections in the Official Action mailed October 1, 2002, are rendered moot by cancellation of Claims 22-47, Applicants nonetheless offer the following remarks concerning these rejections.

Double patenting rejections

Claims 22-47 were rejected for obviousness-type double patenting over claims 1-9 of Patent No. 5,817,629. Cancellation of Claims 22-47 renders this rejection moot.

Rejections under 35 U.S.C. §112, first paragraph

Claims 22-47 were rejected under 35 U.S.C. §112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s) at the time the application was filed, had possession of the claimed invention. In particular, it is alleged that while Claims 22-47 are directed to additions, deletions and substitutions of a peptide having the sequence contained in SEQ ID NO: 1, the skilled artisan cannot envision the detailed chemical structure of the encompassed polypeptides. (Official Action, Section 5, page 5). Cancellation of Claims 22-47 renders this rejection moot.

Claims 22-47 were rejected under 35 U.S.C. §112, first paragraph, as allegedly being indefinite for failing to point out and distinctly claim the subject matter which applicant regards as the invention. In particular, it is alleged that Claims 23-29 and 35-42 are indefinite because of a mis-numbering of the amino acids of SEQ ID NO: 1. Cancellation of Claims 22-47 renders

this rejection moot. Nonetheless, Applicants point out that amendments to the specification and an amended Substitute Sequence Listing are submitted herewith to correctly identify SEQ ID NO: 1 as human myelin basic protein, to list the correct amino acid sequence for human myelin basic protein, and to correctly identify the sequence on page 12 of the specification as "Amino acids 61-106 of SEQ ID NO: 1." Entry of these amendments to the specification, and entry of the Substitute Sequence Listing, should prevent any confusion arising from mis-numbering of amino acids as identified by the Examiner.

Claims 22-29 and 35-42 were rejected under 35 U.S.C. §112, first paragraph, as allegedly indefinite because the metes and bounds of "of about 8 to 25" is unclear. Cancellation of Claims 22-47 renders this rejection moot.

Rejections under 35 U.S.C. §103

Claims 22-47 were rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Hafler et al. (US Patent No 5,571,500) in view of Martin *et al.* (*J Immunol.* 1990 145:540-548) or Ota *et al.* (*Nature* 1990 346:183-187). Cancellation of Claims 22-47 renders this rejection moot.

CONCLUSION

Claims 22-47 are pending in the present application, Claims 48-55 have been withdrawn, and new Claims 56-81 have been added. Entry of new Claims 56-81 is requested. Claims 22-47 have been cancelled, such that Claims 56-81 are now pending. Applicants request that Claims 56-81 be found in condition for allowance. A complete listing of Claims is attached after the signature page.

The specification has been amended and a Substitute Sequence Listing is submitted herewith, in order to correctly identify SEQ ID NO: 1 as the amino acid sequence of human myelin basic protein and to list the amino acid sequence of human myelin basic protein in SEQ

ID NO: 1. The amendments to the specification and the amended Substitute Sequence Listing do not contain new matter and should be entered into the record.

Corrected drawings are submitted herewith. Applications request that objections to drawings be withdrawn and corrected drawings be entered into the record.

If the Examiner believes that a telephone interview would expedite prosecution of this application, she is encouraged to telephone the undersigned Applicants' attorney.

If the fee authorized is incorrect or if any other fees are due in connection with this submission, please charge any such fee or credit any overpayment to Deposit Account No. 03-3975.

Respectfully submitted,

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